रजिस्ट्री सं० डी-(डी)-72 REGISTERED No. D-(D)-72

भारत का राजपत्र
The Gazette of India

असाधारण
EXTRAORDINARY
भाग II—खण्ड 1
PART II—Section 1
प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY

सं० 66] नई दिल्ली, शुक्रवार, सितम्बर 26, 1975/आश्विन 4, 1897
No. 66] NEW DELHI, FRIDAY, SEPTEMBER 26, 1975/ASVINA 4, 1897

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation

No. Date GCV

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 26th September, 1975/Asvina 4, 1897 (Saka)

THE EQUAL REMUNERATION ORDINANCE, 1975

NO. 12 OF 1975

Promulgated by the President in the Twenty-sixth Year of the Republic of India.

An Ordinance to provide for the payment of equal remuneration to men and women workers and for the prevention of discrimination, on the ground of sex, against women in the matter of employment and for matters connected therewith or incidental thereto.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

CHAPTER I

PRELIMINARY

Short title, extent and commencement.

1. (*1*) This Ordinance may be called the Equal Remuneration Ordinance, 1975.

(*2*) It extends to the whole of India.

(*3*) It shall come into force on such date, not being later than three years from the date of promulgation of this Ordinance, as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different establishments or employments.

Definitions.

2. In this Ordinance, unless the context otherwise requires,—

(*a*) "appropriate Government" means,—

(*i*) in relation to any employment carried on by or under the authority of the Central Government or a railway administration, or in relation to a banking company, a mine, oilfield or major port or any corporation established by a Central Act, the Central Government, and

(*ii*) in relation to any other employment, the State Government;

(*b*) "commencement of this Ordinance" means, in relation to an establishment or employment, the date on which this Ordinance comes into force in respect of that establishment or employment;

(*c*) "employer" has the meaning assigned to it in clause (*f*) of section 2 of the Payment of Gratuity Act, 1972; 39 of 1972.

(*d*) "prescribed" means prescribed by rules made under this Ordinance;

(*e*) "remuneration" means the basic wage or salary, and any additional emoluments whatsoever payable, either in cash or in kind, to a person employed in respect of his employment or of work done in such employment, if the terms of the contract of employment, express or implied, were fulfilled;

(*f*) "man" and "woman" means male and female human beings, respectively, of any age;

(*g*) "same work or work of a similar nature" means work in respect of which the skill, effort and responsibility required are the same, when performed under similar working conditions, by a man or a woman and the differences, if any, between the skill, effort and responsibility required of a man and those required of a woman are not of practical importance in relation to the terms and conditions of employment;

(*h*) "worker" means a worker in any establishment or employment in respect of which this Ordinance has come into force;

(*i*) words and expressions used in this Ordinance and not defined but defined in the Industrial Disputes Act, 1947, shall have the meanings respectively assigned to them in that Act. 14 of 1947.

Ordinance to have overriding effect.

3. The provisions of this Ordinance shall have effect notwithstanding anything inconsistent therewith contained in any other law or in the terms of any award, agreement or contract of service, whether made before or after the commencement of this Ordinance, or in any instrument having effect under any law for the time being in force.

CHAPTER II

PAYMENT OF REMUNERATION AT EQUAL RATES TO MEN AND WOMEN WORKERS AND OTHER MATTERS

Duty of employer to pay equal emoluments to men and women workers for same work or work of a similar nature.

4. (*1*) No employer shall pay to any worker, employed by him in an establishment or employment, remuneration, whether payable in cash or in kind, at rates less favourable than those at which remuneration is paid by him to the workers of the opposite sex in such establishment or employment for performing the same work or work of a similar nature.

(*2*) No employer shall, for the purpose of complying with the provisions of sub-section (*1*), reduce the rate of remuneration of any worker.

(*3*) Where in an establishment or employment the rates of remuneration payable before the commencement of this Ordinance for men and women workers for the same work or work of a similar nature are different only on ground of sex, then the higher (in cases where there are only two rates), or, as the case may be, the highest (in cases where there are more than two rates) of such rates shall be the rate at which remuneration shall be payable, on and from such commencement, to such men and women workers:

Provided that nothing in this sub-section shall be deemed to entitle a worker to the revision of the rate of remuneration payable to him or her with reference to the service rendered by him or her before the commencement of this Ordinance.

No discrimination to be made while recruiting men and women workers.

5. On and from the commencement of this Ordinance, no employer shall, while making recruitment for the same work or work of a similar nature, make any discrimination against women except where the employment of women in such work is prohibited or restricted by or under any law for the time being in force:

Provided that the provisions of this sub-section shall not affect any priority or reservation for scheduled castes or scheduled tribes, ex-servicemen, retrenched employees or any other class or category of persons in the matter of recruitment to the posts in an establishment or employment.

Advisory Committee.

6. (*1*) For the purpose of providing increasing opportunities to women for employment, the appropriate Government shall constitute one or more Advisory Committees to advise it with regard to the extent to which women may be employed in such establishments or employments as the Central Government may, by notification in the Official Gazette, specify in this behalf.

(*2*) Every Advisory Committee shall consist of not less than ten persons, to be nominated by the appropriate Government, of which one-half shall be women.

(*3*) In tendering its advice, the Advisory Committee shall have regard to the number of women employed in the concerned establishment or employment, the nature of work, hours of work, suitability of women for employment, as the case may be, the need for providing increasing

employment opportunities for women, including part-time employment, and such other relevant factors as the Committee may think fit.

(4) The Advisory Committee shall regulate its own procedure.

(5) The appropriate Government may, after considering the advice tendered to it by the Advisory Committee and after giving to the persons concerned in the establishment or employment, an opportunity to make representations, issue such directions in respect of employment of women workers, as the appropriate Government may think fit.

Power of appropriate Government to appoint authorities for hearing and deciding claims and complaints.

7. (1) The appropriate Government may, by notification in the Official Gazette, appoint such officers, not below the rank of a Labour Officer, as it thinks fit to be the authorities for the purpose of hearing and deciding—

(a) complaints with regard to the contravention of any provision of this Ordinance;

(b) claims arising out of non-payment of wages at equal rates to men and women workers for the same work or work of a similar nature,

and may, by the same or subsequent notification, define the local limits within which each such authority shall exercise its jurisdiction.

(2) Every complaint or claim referred to in sub-section (1) shall be made in such manner as may be prescribed.

(3) If any question arises as to whether two or more works are of the same nature or of a similar nature, it shall be decided by the authority appointed under sub-section (1).

(4) Where a complaint or claim is entertained under sub-section (1), the authority appointed under sub-section (1) may, after giving the applicant and the employer an opportunity of being heard, and after such inquiry as it may consider necessary, direct,—

(i) in the case of a claim arising out of non-payment of wages at equal rates to men and women workers for the same work or work of a similar nature, the payment to the worker of the amount by which the wages payable to him exceed the amount actually paid;

(ii) in the case of complaint, that adequate steps be taken by the employer so as to ensure that there is no contravention of any provision of this Ordinance.

(5) Save as otherwise provided in sub-section (6), every authority appointed under sub-section (1) shall have all the powers of a Civil Court under the Code of Civil Procedure, 1908, for the purpose of taking evidence and of enforcing the attendance of witnesses and compelling the production of documents, and every such authority shall be deemed to be a Civil Court for all the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973. 5 of 1908. 2 of 1974.

(6) Any employer or worker aggrieved by any order made by an authority appointed under sub-section (1), on a complaint or claim may,

within thirty days from the date of the order, prefer an appeal to such authority as the appropriate government may, by notification in the Official Gazette, specify in this behalf, and that authority may, after hearing the appeal, confirm, modify or reverse the order appealed against and no further appeal shall lie against the order made by such authority.

(7) The authority referred to in sub-section (6) may, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal within the period specified in sub-section (6), allow the appeal to be preferred within a further period of thirty days but not thereafter.

(8) The provisions of sub-section (1) of section 33C of the Industrial
14 of 1947. Disputes Act, 1947, shall apply for the recovery of monies due from an employer arising out of the decision of an authority appointed under this section.

CHAPTER III

MISCELLANEOUS

Duty of employers to maintain registers.

8. On and from the commencement of this Ordinance, every employer shall maintain such registers in relation to the workers employed by him as may be prescribed.

Inspectors.

9. (1) The appropriate Government may, by notification in the Official Gazette, appoint such persons as it may think fit to be Inspectors for the purpose of making an investigation as to whether the provisions of this Ordinance, or the rules made thereunder, are being complied with by employers, and may define the local limits within which an Inspector may make such investigation.

(2) Every Inspector shall be deemed to be a public servant within
45 of 1860. the meaning of section 21 of the Indian Penal Code.

(3) An Inspector may, at any place within the local limits of his jurisdiction,—

(a) enter, at any reasonable time, with such assistance as he thinks fit, any building, factory, premises or vessel;

(b) require any employer to produce any register, muster-roll or other documents relating to the employment of workers, and examine such document;

(c) take, on the spot or otherwise, the evidence of any person for the purpose of ascertaining whether the provisions of this Ordinance are being, or have been, complied with;

(d) examine the employer, his agent or servant or any other person found in charge of the establishment or any premises connected therewith or any person whom the Inspector has reasonable cause to believe to be, or to have been, a worker in the establishment;

(e) make copies, or take extracts from, any register or other document maintained in relation to the establishment under this Ordinance.

(4) Any person required by an Inspector to produce any register or other document or to give any information shall comply with such requisition.

Penalties.

10. (1) After the commencement of this Ordinance, any employer, being required under the Ordinance, so to do—

(a) omits or fails to produce any register, muster-roll or other document relating to the employment of workers, or

(b) omits or refuses to give any evidence or prevents his agent, servant, or any other person in charge of the establishment, or any worker, from giving evidence, or

(c) omits or refuses to give any information, he shall be punishable with fine which may extend to one thousand rupees.

(2) If after the commencement of this Ordinance, any employer—

(a) makes any recruitment in contravention of the provisions of this Ordinance, or

(b) makes any payment of remuneration at unequal rates to men and women workers, for the same work or work of a similar nature, or

(c) makes any discrimination between men and women workers in contravention of the provisions of this Ordinance, or

(d) omits or fails to carry out any direction made by the appropriate Government under sub-section (5) of section 6,

he shall be punishable with fine which may extend to five thousand rupees.

(3) If any person being required so to do, omits or refuses to produce to an Inspector any register or other document or to give any information, he shall be punishable with fine which may extend to five hundred rupees.

Offences by companies.

11. (1) Where an offence under this Ordinance has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Ordinance has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager,

secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(*a*) "company" means any body corporate and includes a firm or other association of individuals; and

(*b*) "director", in relation to a firm, means a partner in the firm.

Cognizance of offences.

12. (*1*) No court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try any offence punishable under this Ordinance.

(*2*) No court shall take cognizance of an offence punishable under this Ordinance except upon a complaint made with the sanction of the appropriate Government or an officer authorised by it in this behalf.

(*3*) No court shall take cognizance of an offence punishable under this Ordinance unless complaint thereof is made within three months of the grant of sanction under this section.

Power to make rules.

13. (*1*) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Ordinance.

(*2*) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(*a*) the manner in which complaints regarding the contravention of any provision of this Ordinance is to be made;

(*b*) registers which an employer shall be required to maintain in relation to the workers employed by him;

(*c*) any other matter which is required to be, or may be, prescribed.

(*3*) Every rule made by the Central Government under this Ordinance shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Power of Central Government to give directions.

14. The Central Government may give directions to a State Government as to the carrying into execution of this Ordinance in the State.

Ordinance not to apply in certain special cases.

15. In so far as—

(*a*) the terms and conditions of a woman's employment are, in any respect, affected by compliance with the law regulating the employment of women, or

(*b*) any special treatment is accorded to women in connection with the birth or expected birth of a child,

then to that extent the requirement of equal treatment for men and women as mentioned in this Ordinance shall not apply (but without prejudice to its operation as regards other matters), nor shall that requirement extent to requiring equal treatment as regards terms and conditions related to retirement, marriage or death or to any provision made in connection with retirement, marriage or death.

Power to make declaration.

16. Where the appropriate Government is, on a consideration of all the circumstances of the case, satisfied that the difference in regard to the remuneration, or a particular species of remuneration, of men and women workers in any establishment or employment is based on a factor other than sex, it may, by notification in the Official Gaette, make a declaration to that effect, and any act of the employer attributable to such a difference shall not be deemed to be a contravention of any provision of this Ordinance.

Power to remove difficulties.

17. If any difficulty arises in giving effect to provisions of this Ordinance, the Central Government may, by notification in the Official Gazette, make any order, not inconsistent with the provisions of this Ordinance, which appears to it to be necessary for the purpose of removing the difficulty:

Provided that every such order shall, as soon as may be after it is made, be laid before each House of Parliament.

FAKHRUDDIN ALI AHMED,
President.

K. K. SUNDARAM,
Secy. to the Govt. of India.

PRINTED BY THE GENERAL MANAGER, GOVERNMENT OF INDIA PRESS, MINTO ROAD, NEW DELHI AND PUBLISHED BY THE CONTROLLER OF PUBLICATIONS, DELHI, 1975